

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 10-79
)	
JAMES V. SMITH,)	
CAROL J. SMITH, and)	
JP MORGAN CHASE BANK,)	
)	
Defendants.)	

UNITED STATES' COMPLAINT

Plaintiff, United States of America, pursuant to 26 U.S.C., Section 7401, at the direction of the Attorney General of the United States, or his delegate, and at the request of the Secretary of the Treasury, or his delegate, files this Complaint against Defendant, James V. Smith ("Smith") and the other named defendants and states as follows:

NATURE OF ACTION

1. This is a civil action brought by the United States of America pursuant to Sections 7401, 7402 and 7403 of the Internal Revenue Code of 1986, as amended (26 U.S.C.) ("the Code"), to reduce to judgment federal tax liabilities assessed against James Smith and to foreclose on certain real property of James Smith.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 26 U.S.C. Sections 7402 and 7403 of the Code and 28 U.S.C. Sections 1340 and 1345.

3. Venue of this action properly lies in this district pursuant to 28 U.S.C. Sections 1391(b) and 1396.

THE PARTIES

4. Plaintiff is the United States of America.

5. Defendant, James V. Smith, is the taxpayer in this action and can be served in Arlington, Texas.

6. Defendant, Carol J. Smith, may be residing at the property and can be served in Arlington, Texas.

7. Defendant, JP Morgan Chase Bank, is a party to this litigation because it may hold a purchase money lien on the residence and may therefore claim an interest in the property at issue. JP Morgan Chase Bank can be served through its registered agent, CT Corporation System at 350 North St. Paul Street, Dallas, Texas 75201.

THE TAX LIABILITY

8. A delegate of the Secretary of the Treasury assessed against, and gave notice and demand to James Smith for unpaid income tax, penalties, statutory additions, and interest for the years 1997 through 2006. The table below shows the tax period, the assessment date, and the totals by year.

TYPE OF TAX	TAX PERIOD	DATE OF ASSESSMENT	DATE NOTICE OF FEDERAL TAX LIEN FILED	AMOUNT DUE THROUGH January 19, 2010
1040	1997	01/01/2001	03/07/2001	\$8,860.09
1040	1998	01/01/2001	03/07/2007	\$5,510.20
1040	1999	01/01/2001	03/07/2001	\$17,250.65
1040	2000	05/31/2004	02/28/2007	\$37,753.75
1040	2001	05/24/2004	02/28/2007	\$4,096.01
1040	2002	05/31/2004	01/25/2006	\$10,314.82
1040	2003	05/24/2004	05/11/2007	\$156.50
1040	2004	04/30/2007	05/11/2007	\$4,461.78

TYPE OF TAX	TAX PERIOD	DATE OF ASSESSMENT	DATE NOTICE OF FEDERAL TAX LIEN FILED	AMOUNT DUE THROUGH January 19, 2010
1040	2005	04/30/2007	05/11/2007	\$7,446.42
1040	2006	05/28/2007	08/09/2007	\$24,363.53
TOTAL				\$120,213.75

9. Proper notice of and demand for payment of the assessments referred to above was mailed to James Smith on or about the date of the assessments.

10. The United States recorded Notices of Federal Tax Liens against James Smith in the real property records of Tarrant County, Texas on the dates listed in the chart above.

THE SUBJECT PROPERTY

11. Defendant, James Smith is the beneficial owner of certain real property located in Arlington, Texas and further described as follows:

LOT 66, BLOCK 5, OF WILLOW BEND, AN ADDITION TO THE CITY OF ARLINGTON, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 388 116, PAGE 16, OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS.

12. Defendant, Smith received this property by divorce decree when he divorced Carol J. Smith on May 14, 1998.

(Reduce Assessments to Judgment)

13. The United States is seeking a judgment that determines James Smith's indebtedness to the United States on account of the tax assessments described above.

(Foreclose Federal Tax Liens)

14. The United States is seeking the enforcement of its federal tax liens against the property described above to pay the unpaid income tax liabilities, penalties and interest of James Smith.

15. Pursuant to Section 6321 of the Code, a federal tax lien attached to James Smith's interest in the property upon the assessments of the taxes as indicated above. This lien was perfected against third party creditors when the notices of federal tax liens were filed. The United States seeks to foreclose the lien and sell the property.

COUNT III

(Ten Percent Surcharge for Costs of Collection)

16. 28 U.S.C. section 3011 authorizes the United States to recover a surcharge of 10% of the amount of the debt in the event that the United States avails itself of the pre-judgment or post judgment relief as set forth in Subchapter B or C of the Federal Debt Collection Procedure Act, 28 U.S.C. §§3001 *et. seq.*, in order to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

FOR THESE REASONS, the United States requests the Court to Order,

A. That James Smith is indebted to the United States for the amount of \$120,213.75, plus penalties, statutory additions and interest from January 19, 2010.

B. That the property described above is subject to the claim of the United States; the Court determine the validity of the claims of the defendants named herein against the property; and also determine the priority of all respective claims as against the claim of the United States;

C. That the United States has a valid lien against the property, that said lien be foreclosed and the property be sold in accordance with the law and practice of this Court, and that the proceeds of such sale be distributed in accordance with the findings of the Court and the rights of the parties;

D. That the United States is entitled to the 10% litigation surcharge set forth in 28 U.S.C. Section 3011; and,

E. That the United States have such further relief as this Court may deem just and proper, including its costs herein.

/s/ Dorotha M. Ocker

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